

Supreme Court, U. S.  
**FILED**  
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DAK, JR., CLERK

IN THE

**Supreme Court of the United States**

**OCTOBER TERM, 1978**

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No. 78-428

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DAVID GAETANO, and ALAN ERNEST, Next Friend of  
Unborn Child Roe and All Others Similarly Situated

Petitioners

vs.

THE UNITED STATES COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT

Respondent

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EARL J. SILBERT, United States Attorney  
for the District of Columbia

REAL PARTY IN INTEREST

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PETITION FOR REHEARING

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## PETITION FOR REHEARING

The motion for leave to file a petition for a writ of mandamus was denied Oct 30, 1978.

## REASONS FOR REHEARING

The petitioner demands explanation for how it is possible for the Supreme Court of the United States to be petitioned 18 times to overrule its abortion decision on the grounds that it is based on false evidence and millions of lives have been illegally exterminated, and 18 times summarily refuse to even listen? How is this possible?

Can it be pretended that it is any longer the government of the United States,- any government of Constitution and laws? EXHIBIT A shows:

1. even the Supreme Court admitted in Roe v. Wade that if the unborn were "a 'person' within the language and meaning of the Fourteenth Amendment" then the case for abortion for convenience "of course, collapses, for the fetus' right to life is then guaranteed specifically by the Amendment," and

2. the express, universal terms of the Fourteenth Amendment ( "nor shall any State deprive any person of life . . . without due process of law") on their face, protect the lives of the unborn, as everyone else, and

3. the holdings of Chief Justice John Marshall ( that can be traced through the Constitution, The Federalist Papers, and The Federal Convention of 1787) show that the Supreme Court had no lawful authority to construe an exception to express, universal terms ( such as "any person" ) unless the Court could prove the exception to the express, universal terms beyond a reasonable doubt, and show that "had this particular case been suggested" to the framers the "language would have been so varied, as to exclude it," and

4. the Supreme Court presented false evidence to support its conclusion in Roe v Wade that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn," and but for the false evidence, there is not even a credible foundation, much less a compelling one, for denying the protection of the express, universal terms "any person" to the lives of the unborn, and

5. the truthful history verifies that these express, universal terms "any person" include the unborn, as they do all other categories of persons and more certainly than many groups. The Supreme Court included "corporations" and "aliens" merely on the strength of the express, universal terms "any person," without any independent corroborating evidence whatsoever.

In short, EXHIBIT A shows that the Supreme Court violated the very letter of the Constitution as well as its spirit, and condemned millions of victims to death whom the Constitution endeavours to preserve.

This is the 19th petition to overrule Roe v Wade on the grounds set out in EXHIBIT A. The first petition, almost three years ago, humbly appealed: "Can Roe v Wade stand if it is shown to rest on evidence that is not true?" Despite the summary rejection of that petition, the second petition likewise humbly pled, without condemnation: "The amici contend that Roe v Wade rests on factual errors which require the overruling of that case." The Supreme Court would not even allow an amici brief to be filed. Due to all these repeated petitions, year after year, the criminal law appears to have descriptions for this conduct of the Supreme Court of the United States. See Appendix, A-1, infra.

Alan Ernest

Counsel for Petitioners

## APPENDIX THE CASE AGAINST THE SUPREME COURT

The evidence appears to support the charge that some Justices of the U.S. Supreme Court have violated federal criminal statutes, such as:

18 USC 242, Deprivation of rights under color of law,- It is a crime for government officials, acting under pretense of law, to willfully deprive persons of their rights secured by the U.S. Constitution. The documentation in EXHIBIT A, at the very least, permits reasonable people to conclude beyond a reasonable doubt that the unborn are persons whose lives are protected by the U.S. Constitution. The evidence that Justices specifically authorized killings throughout the United States, by a willfully false construction of the Constitution, would certainly permit a jury to conclude beyond a reasonable doubt that Justices, acting under pretense of law, had deprived millions of unborn persons of their right to life protected by the U.S. Constitution.

22 D.C. Code 201, D.C. abortion statute,- The felony abortion statute only permits abortions in the District of Columbia to preserve the mother's life or health. The evidence that Justices specifically authorized non-therapeutic abortions in violation of the positive criminal statute, by a willfully false construction of the Constitution, would surely permit a jury to find beyond a reasonable doubt that Justices had aided and abetted those killings.

22 D.C. Code 105 a, Conspiracy,- When Roe v Wade was decided, non-therapeutic abortions were illegal, not just in the District of Columbia, but generally throughout the United States. The evidence that Justices specifically authorized non-therapeutic abortions in violation of the States' positive criminal statutes, by a willfully false construction of the Constitution, would appear to permit a jury to find beyond a reasonable doubt that Justices conspired to effect those killings.

18 USC 1503, Obstruction of justice,- It is a

crime to endeavor to obstruct or impede the due enforcement of the law of the land, even by conduct that is otherwise legal, if the motive is corrupt or dishonest. The evidence that the Supreme Court has been petitioned year after year to overrule Roe v Wade on the grounds that it is based on false evidence and millions of lives have been illegally exterminated, and year after year the Supreme Court summarily refused to even listen, would appear sufficient to permit a jury to conclude beyond a reasonable doubt that Justices had dishonestly endeavored to obstruct or impede the due enforcement of the law of the land.

18 USC 1001, False statements,- The evidence that some Justices, within their official jurisdiction, made or adopted false statements in Roe v Wade, and repeated petitions indicated the false statements to be willful and knowing, might be sufficient to permit a jury to conclude beyond a reasonable doubt that some Justices had made false statements within 18 USC 1001.

18 USC 371, Conspiracy,- It is not only a crime to conspire to commit any criminal offense, but also to conspire to defraud the United States by misrepresentation or the overreaching of those charged with the carrying out of the governmental intention. The evidence already mentioned would appear sufficient to permit a jury to find beyond a reasonable doubt that Justices had not only conspired to commit the above mentioned crimes, but also to defraud the United States.

18 USC 1621, Perjury,- An oath of office to uphold the Constitution would probably not, under ordinary circumstances, support a charge of perjury. However, Chief Justice John Marshall held that for "judges" to "swear" to discharge their duties "agreeably to the constitution" and then "close their eyes on the constitution" and "condemn to death those victims whom the constitution endeavours to preserve" is worse than "solemn mockery," it is a "crime." Marbury v Madison, 1 Cranch at 179-180.

# CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

Alan Ernest  
Counsel